BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

THE CASE OF ASARCO INCORPORATED, a New Jersey corporation authorized to do business in Nebraska, Respondent.	)	Case No. 1520
	)	AMENDED COMPLAINT AND COMPLIANCE ORDER

There is now in effect a Final Complaint and Compliance Order of June 9, 1995, as modified on January 22, 1996, for extension of certain deadlines. On November 15, 1995, the Respondent, Asarco Incorporated, announced a change in configuration of its plant in Omaha, Nebraska, and requested that the Complainant, Nebraska Department of Environmental Quality, modify the Order of June 9, 1995. Upon consideration by the Department portions of the previous Orders which are affected by the change in configuration have been amended; portions which are not affected are ratified and remain in force as previously promulgated. In this document the paragraphs and subparagraphs identified by underlined numbers and letters denote the ratified portions of the previously promulgated Order. New requirements are not underlined. The previously promulgated provisions are included for clarification and convenience by collecting all requirements in one document. The issuance of this document is not intended to alter the status of the previously promulgated provisions.

PRELIMINARY STATEMENT

The Complaint, Compliance Order and Notice of Opportunity for Hearing are issued pursuant to Neb. Rev. Stat. §81-1507(1)

(Reissue 1994) of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §81-1501 et seq. (Reissue 1994). The Complainant is Randolph Wood, Director of the Nebraska Department of Environmental Quality (hereinafter referred to as NDEQ). The Respondent is Asarco Incorporated, a New Jersey corporation, authorized to do business in the State of Nebraska. The Respondent at all times material herein operates a smelter of lead and other non-ferrous metals at 500 Douglas Street, Omaha, Nebraska (hereinafter the Omaha plant). The Complainant has determined that the Respondent has violated the Nebraska Environmental Protection Act by causing pollution, placing wastes in a location where they are likely to cause pollution, and by violating an air quality standard established by the Nebraska Environmental Quality Council, specifically the lead standard. The Complaint below establishes the violation.

COMPLAINT

1. The Complainant incorporates herein by reference the allegations contained in its preliminary statement. The terms "person", "air pollution", and "wastes" as used in this complaint are defined by Neb. Rev. Stat. §81-1502 (Reissue 1994).

2. Pursuant to Neb. Rev. Stat. §81-1506 (Reissue 1994), it is unlawful for any person to cause pollution of the air of the State, to place wastes in a location where they are likely to cause pollution of any air of the State, or to discharge or emit wastes into the air of the State which reduce the quality of such air below the air quality standards established by the Council.

Pursuant to Neb. Rev. Stat. §81-1505(1)(Reissue 1994) the Environmental Quality Council duly adopted an air quality standard related to lead emissions and promulgated the same as Title 129, Chapter 4, Section 006, Nebraska Air Pollution Control Rules and Regulations, Nebraska Administrative Code, in the following terms:

"Primary and secondary standard 1.5 micrograms per cubic meter calendar quarter arithmetic mean."

3. In the normal course of its business, Respondent causes emissions of airborne lead particles by refining, smelting, storage, transport, and various other activities.

4. Lead is a substance which is toxic and hazardous to human health.

5. The Respondent has polluted the air of the State and has violated the State's air quality standard for lead by causing the arithmetic mean of the ambient air adjacent to the outside boundaries of the Omaha plant to exceed 1.5 micrograms per cubic meter, and thereby reduced the quality of the air of the state below the air quality standard for lead expressed in Title 129, Chapter 4, Section 006, in the calendar quarters ending March 1988, September 1988, December 1988, March 1989, September 1989, December 1989, March 1990, December 1990, March 1991, December 1991, March 1992, June 1992, September 1992, December 1992, March 1993, September 1993, December 1993, and March 1994.

6. The Respondent has, on a continuous basis since January 1, 1988, placed wastes in a location where they are likely to cause pollution of the air of the State by storage of lead-bearing waste material in the open, exposed to the ambient air; and, the

defendant has, on a continuous basis since January 1, 1988, caused dust and lead particles from its refining and other operations at the Omaha plant to escape and pollute the ambient air of the state.

7. Pursuant to Neb. Rev. Stat. §81-1504 (25) (Reissue 1994) the Department has the power and duty to develop and enforce compliance schedules under such conditions as the director may prescribe to prevent, control or abate pollution. The measures set forth below in the compliance order are reasonably likely to prevent, control and abate pollution.

8. Pursuant to Neb. Rev. Stat. §81-1504(4) (Reissue 1994) the Department of Environmental Quality is authorized and required to act as the state air pollution agency for all purposes of the Federal Clean Air Act as amended 42 U.S.C 6901 et seq. Section 172(c) of the Clean Air Act authorizes the control measures and associated schedule contained herein by virtue of the respondent's location within, and contribution to, an area designated as non-attainment for lead by the Administrator of the U.S. Environmental Protection Agency. Said control measures and associated schedule are reasonably available control measures to be implemented as expeditiously as practicable (including such reductions in emissions of existing sources in the area as may be obtained through the adoption, at a minimum of reasonably available control technology) in order to attain the national ambient air quality standard for lead.

COMPLIANCE ORDER

9. IT IS THEREFORE ORDERED that the Respondent shall complete the following schedule and requirements. These represent control measures which are reasonably available considering technological and economic feasibility in accordance with Section 172(c) (1) of the Clean Air Act.

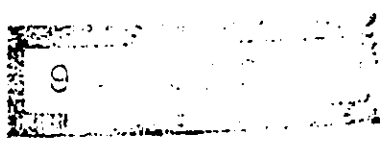
(a) **Liquation Block Exchange Project:**

Liquation block exchanges shall not be conducted in the residue kettle. Prior to, but not after, December 31, 1996, liquation block exchanges may be conducted in a refinery kettle. After December 31, 1996, liquation block exchanges shall only be conducted in the bismuth de-leading kettles which shall be specially equipped and operated with local exhaust ventilation vented to the softener baghouse.

(b) **Application of Dust Suppressants:**

Asarco's existing programs for street sweeping and application of dust suppressants shall be continued, as follows:

i. Lignosulfonate, or an equivalent, shall be used to stabilize all unpaved areas within the plant premises; a mixture of lignosulfonate and an insoluble latex binder, or equivalent (such as tarps), shall be used to stabilize all outside piles of slags, drosses and refractory bricks. These measures shall be performed in accordance with Asarco's work practice manual. Dust



stabilization compounds may be changed only after notification to NDEQ and the City of Omaha's Air Quality Division.

ii. A Johnston regenerative air type sweeper, or equivalent, which is also equipped with a wet sweeping system, shall be used six hours per day, Monday through Saturday, on all paved roadways within the plant premise. Asarco shall maintain files, available upon request to NDEQ or its designee, which include the following information:

a. The date with starting and completion times of each street sweeping.

b. Justification for deviating from the standard street sweeping schedule.

c. The daily rainfall recorded on Asarco's on-site rain gauge.

d. The date, composition, and total amount of dust suppressants applied to the surfaces of stock piles and unpaved areas on each occasion; the placement and removal of tarps including the condition of tarps.

e. The date, time and findings of each inspection conducted for the purpose of determining the need for dust suppressant applications.

(c) **Outdoor Material Handling and Road Dust Control Project (1):**

From and after June 1, 1994 outdoor stockpiles of exchange slag, cupola slag, reverb slag, tin skims, matte, used refractory brick, dore slag, bismuth dross, lead chloride, and all other materials containing greater than 1% lead (excluding formed metal) shall be contained using concrete road barriers, or equivalent methods, as approved by the Director of NDEQ. The total of stockpiles of such materials containing greater than 1% lead (excluding metal ingots) shall not exceed 32,198 cubic yards or 54,737 total tons. The barriers shall be designed and maintained to ensure stockpile integrity and the barrier system shall be effective in controlling spillage, track-out and wash-out onto roadways. Asarco shall maintain documentation of sampling procedures and laboratory assay results for any outdoor stockpiles not contained by concrete barriers or an approved equivalent method, and for all outdoor stockpiles if the total volume or tonnage exceeds 90% of the allowable limits in this paragraph.

(d) **Bismuth Cupel Furnace Ventilation Project (1):**

i. Use of the automatic temperature control system installed in January 1993 shall continue. This system shall be operated to eliminate furnace overheating and over pressurizing.

ii. On or before July 1, 1994, automatic dampers shall be installed and operated in the cupel furnace ventilation flues. These dampers shall be set to

automatically maintain a static pressure level that is adequate for effective furnace ventilation.

iii. Use of the water-cooled vibrating table shall be continued. This equipment shall be operated and maintained such that litharge skimming occurs at a slow, steady rate. Litharge shall be cooled as quickly as is reasonably possible after it contacts the water-cooled table; and then it shall be conveyed directly into portable containers.

iv. On or before July 1, 1994, the existing ventilation hoods and ductwork for the cupel furnaces shall be eliminated and replaced with an alternative system. Instead of capturing emissions at the point of escape, the new system shall be designed and operated for maximum control of furnace pressure and minimization of the escape of emissions.

(e) **Baghouse Dust Unloading Project:**

i. Asarco shall implement the following measures to reduce emissions during dust unloading. The maximum wind speed at which dust unloading may occur at the smelter baghouse is 15 mph. The maximum wind speed at which dust unloading may occur at the softener baghouse is 12 mph. Compliance with the baghouse unloading wind speed limitations shall be determined on the basis of a 15 minute rolling average. No wind speed limitation applies when the cellar doors are closed and dust unloading occurs through the vacuum ports. On or before

August 1, 1994, Asarco shall install windbreaks at the smelter baghouse. The windbreaks shall be at least 10 feet in height, and gated to span the area between the flood wall and baghouse building on both the north and south sides of the baghouse. The windscreen/gate ends shall be equipped with rubber flaps to seal the space between gate and floodwall. During unloading, these swinging windscreen/gates shall be closed, and, with the flood wall (west) and baghouse building (east), shall produce a completely surrounded unloading operation. Asarco shall maintain a log, available upon request to NDEQ or its designee, recording the times and duration of occasions when the smelter or softener baghouse doors are open. The log shall also contain continuous windspeed recordings from a new wind gauge and continuous recorder, approved by NDEQ, which shall be installed by Asarco at a location representative of wind speeds in the vicinity of the baghouse doors on or before August 1, 1994. The Heartland Park meteorological station shall continue to be maintained and operated according to the June 14, 1991 document ASARCO Incorporated Meteorological Program Monitoring and Quality Assurance Plan, Omaha, Nebraska until further action by the Director of NDEQ. Digitized meteorological data including temperature, wind direction, wind speed, and sigma theta data from the park site and precipitation from the plant site shall be

provided to the Department within 60 days of the Department's request. Asarco may discontinue the operation of this meteorological station upon approval by the NDEQ, when five consecutive years of data of sufficient completeness and quality for modeling purposes have been obtained.

ii. Asarco shall, on or before August 1, 1994, install vacuum ports in the cellar doors of the softener and smelter baghouses. These ports shall be no larger than necessary to accept a sliding pipe through which baghouse dust can be vacuumed. When not in use the ports shall remain closed. Only when all of the fume that can be captured by the vacuum system is withdrawn may the doors be opened to allow a vacuum truck to enter the cellar to pick up remaining fume.

(f) **Antimony stack extension Project:**

On or before September 1, 1994, Asarco shall install a 20-foot vertical discharge stack on each of the horizontal ducts for exhaust gases from antimony product baghouses #1-4. In addition, Asarco shall, on or before September 1, 1994, install 50-foot stack extensions on antimony kettle stacks #1 and 2.

(g) **Dore Kettle Stack Project:**

On or before December 1, 1994, the four existing dore liquation kettle exhausts shall be vented to the existing 178-foot black stack.

(h) **Cupola Furnace & Residue Kettle Improvements (1):**

i. On or before April 1, 1995, the Respondent shall install a secondary hood and new duct work to the cupola furnace for fugitive emissions produced during charging and smelting. This hood shall be ventilated as specified in Paragraph 16. New hoods shall be installed to capture emissions from tapping of the cupola furnace including the tap hole, settler, slag pot, lead pot and button mold; these additional new hoods shall be ventilated as specified in Paragraph 16.

ii. On or before April 1, 1995, the Respondent shall replace or modify the residue kettle hood to further enclose the operations and to be effective in reducing emissions from the kettle charging and operations. In addition, combustion gases evolved from the residue kettle shall be vented to the smelter baghouse. Exhaust ventilation from these combined sources shall be as specified in Paragraph 16; and the exhaust shall be vented to the smelter baghouse.

iii. On or before April 1, 1995, the cupola furnace lead pots shall be further enclosed to the maximum extent feasible.

iv. On or before April 1, 1995, bunkers shall be constructed in the residue building and used to store materials to be smelted in the residue building. All softener skims shall be handled and stored in these bunkers or other indoor storage areas in the residue building.

v. On or before April 1, 1995, the smelter baghouse capacity shall be increased to 100,000 acfm. In addition, the smelter baghouse discharge stacks shall be increased in height to 91 feet above ground level. The smelter baghouse shall serve the following sources during operation of the cupola furnace and residue kettle: cupola process gas, cupola tapping hoods, residue kettle hood, low grade processes (after December 31, 1996), and residue kettle combustion gas. The cupola secondary hood shall be vented through the residue vent baghouse.

(i) Outdoor Material Handling and Road Dust Control Project (2):

No softener skims or tin skims shall be stored or dumped outdoors after April 1, 1995.

(j) Bismuth Cupel Furnace Ventilation Project (2):

i. On or before December 31, 1996, the exhaust ventilation volume supplied to the cupel furnaces shall be increased as specified in Paragraph 16. The additional ventilation shall be supplied by the softener baghouse.

ii. On or before December 31, 1996, combustion gases evolved from the six bismuth kettles shall be vented to the softener baghouse.

(k) Burning of Baghouse Dust:

Asarco shall not at any time, in any location within the plant, engage in intentional burning of baghouse dust.

(l) Outdoor Material Handling and Road Dust Control Project (3,4,5):

i. No purchase drosses, copper drosses or caustic skims shall be dumped outdoors subsequent to December 31, 1996.

ii. The outdoor dumping of exchange slag and dore slag/bismuth dross will be limited to a maximum of one time.

(m) Process Weight Limitations

i. On or before December 31, 1996, Asarco shall cease all production operations in the refinery building and in the dore building.

ii. On and after December 31, 1996, Asarco shall limit production in the bismuth, residue and antimony oxide facilities. During each calendar quarter, Asarco shall operate the Omaha plant in compliance with any one of the following six operating scenarios:

Production Facility	Operating Parameter	Operating Scenarios #1	#2	#3	#4	#5	#6
Antimony Oxide	Tons Antimony Oxide Produced Per Quarter	0	375	375	375	0	0
Residue	Tons Residue Lead Produced Per Quarter	6000	2000	3000	4000	3000	4000
Bismuth	Tons Lead Chloride	0	850	650	400	760	505

Produced Per Quarter						
Cupeling Hours per Quarter (total for two cupels)	0	2500	1900	1170	2240	1490
Softener Baghouse Operating Hours per Quarter	0	1250	950	585	1120	745

(n) Respondent shall install test ports in all ducts to which a minimum air flow requirement is associated. The test ports shall be installed for the purpose of conducting physical measurements of air flow through the ducts. Test ports shall be located in accessible areas and at locations which will allow accurate air flow measurements to be made. If reasonable, ready, access for test port locations cannot be provided, or if the respondent elects, continuous automatic air flow instruments shall be installed; and continuous readouts of air flow measurements shall be provided for inspection. At each test port location Asarco shall, not less than once every 14 days, conduct an air flow test to determine compliance with the ventilation requirements of this order according to 40 CFR Part 60, Appendix A, Method 2, or an alternative method approved by the Director. Asarco shall retain a record of the results of each such test for three years and make the same available to NDEQ upon request.

(o) **Cupola Furnace and Residue Kettle Improvements(2):**

Source Description	Source #	Lead Emission Rate (lb/hr.)
Bismuth Power Roof Ventilator	30002.1	.22 **
Bismuth Power Roof Ventilator	30002.2	.22 **
Brick Stack	40000	0.082
Smelter Baghouse Stack	40003	0.35
Smelter Baghouse Stack	40004	0.35
Softener Baghouse Stacks	10001-10006	0.98

** test using either the same technique used in preparing the baseline inventory for the control strategy, or according to EPA approved methods in which case, if Asarco chooses, one bismuth power roof ventilator may be tested as representative of the remaining power roof ventilator.

Source identification numbers are from the post-control emission inventory submitted with Asarco's SIP revision proposal dated November 16, 1995.

Asarco shall provide an additional lead monitor at a location within the current non-attainment area at a location approved by NDEQ and as close to the area of predicted maximum lead concentration as feasible. The location of this monitor shall satisfy applicable siting criteria. It shall be installed and operational no later than August 1, 1994. This monitor shall be operated as a State and Local Monitoring Station (SLAMS), and it shall be in operation every other day.

11. In accordance with Section 172(c)(2) of the Clean Air Act, Asarco shall complete the following schedule of activities as set forth in more detail in item 9 hereof:

Project	Completion Date
Liquation Block Exchange Restriction	10/1/93
Application of Dust Suppressants	10/1/93

i. On or before December 31, 1996, exhaust gases from the low grade processes shall be vented to the smelter baghouse instead of the low grade baghouse.

10. Compliance with the emission rates contained in this paragraph shall be demonstrated to NDEQ by Asarco through tests, conducted at Asarco's expense, by an independent testing firm, acceptable to NDEQ, according to 40 CFR Part 60 Appendix A, Method 12, or alternative methods as proposed by Asarco and approved by NDEQ. All emission limits are one hour averages. Compliance with these limits is to be demonstrated by at least 3 test runs of not less than one hour and not more than two hours or such longer period as accepted by NDEQ on a case by case basis. The minimum sample volume shall be .85 dscm (30 dscf). During each test run the affected sources shall be operated at their maximum allowable production rates. Emission tests or retests may be conducted at production rates less than maximum allowable production rates; in which case the production rate at the time of such tests or retests, assuming compliance is demonstrated, shall be the maximum allowable production rate, as designated by NDEQ, for such processes. Emission rates will be determined by the arithmetic average of each acceptable run expressed in pounds per hour. Testing shall be conducted before May 1, 1997. Asarco shall notify NDEQ of the proposed test dates and provide a copy of the test protocol to NDEQ for review and approval at least 30 days prior to testing. Test reports will be submitted to NDEQ within 60 days of the completion of tests. The following emission rates shall be achieved:

Outdoor Material Handling and Road Dust Project (1)	6/1/94
Cupel Furnace Ventilation Project (1)	7/1/94
Baghouse Dust Unloading Project	8/1/94
Antimony Stack Extension	9/1/94
Dore' Kettle Stack Project	12/1/94
Cupola Furnace & Residue Kettle Improvements	4/1/95
Outdoor Material Handling Road Dust Control Project (2)	4/1/95
Cupel Furnace Ventilation Project (2)	12/31/96
Outdoor Material Handling and Road Dust Control Project (3,4,5)	12/31/96
Process Weight Limits	12/31/96
Cupola Furnace and Residue Kettle Improvements(2)	12/31/96

12. Asarco shall, to the extent consistent with this order, adhere to its existing Work Practices Manual, attached hereto and incorporated herein by reference as Appendix A, as the same may be modified from time to time. Work practices for unloading baghouse dust from each baghouse shall be included in the Work Practices Manual. In the case of any baghouse for which work practices have not been developed, work practices for such baghouse shall be developed and submitted to NDEQ for approval and inclusion in the Work Practices Manual within three months of the date of this order. 90 days prior to any demolition or excavation on the plant site Asarco shall develop a work practice to minimize lead emissions which may result from such activities and submit the same to NDEQ for approval. New work practices and work practices which are not referenced in the work practice manual may not be introduced or modified without the approval of NDEQ. Asarco shall give NDEQ or its designee at least 7 days prior notice of all construction on its premises, which may affect emission or dispersion of lead, whether or not in such instance a construction permit is required; and in each instance when engineers or architects plans have been produced for such construction,

demolition, or remodeling they shall be furnished to NDEQ or its designee prior to commencement of such activity. Asarco shall in no respect deviate from the physical designs which were used as assumptions in the modeling exercise submitted to NDEQ in Asarco's demonstration of attainment dated November 16, 1995, without the prior written approval of NDEQ.

13. In the debismuthing process the formation of dry dross shall not occur. During the debismuthing process lead-containing bismuth shall be concentrated in a molten salt reagent phase and transferred to the next process vessel as a slag-like material.

14. Asarco shall continue to use and maintain the existing fabric filter systems to control emissions from the packaging; separator discharge, storage hoppers, blender, bucket elevators, hood cleaning station and associated equipment in the antimony oxide building.

15. Asarco shall prominently post the area between the floodwall and the river with "no trespassing" signs; and Asarco shall patrol said area to discourage trespassing.

16. Asarco shall report to NDEQ within fifteen (15) days of the date it accomplishes each milestone set forth in item 11 of this order. Asarco shall maintain a file which states for each calendar quarter: the residue lead produced (tons of lead content), the lead chloride produced, the antimony oxide produced, the total cupeling hours, and the softener baghouse operating hours. Asarco shall maintain a file which sets forth the date, time and findings of each inspection that it conducts of each fabric filter system in use in the plant, together with a report

of the date, time and description of any repairs to the fabric filter systems. Asarco shall keep all records or files required by this order, in its entirety, and the work practice plan, at its plant for at least two years subsequent to the occurrence recorded, and such records or files shall be made available to NDEQ or its designee upon request.

The minimum air flow requirements of this order shall apply only at such times as the equipment to be ventilated is in operation, and shall not apply to such equipment (1) during periods of malfunction, but no longer than reasonably necessary to achieve repairs (2) during periods of necessary maintenance which could not reasonably be scheduled when operations are not occurring and (3) or necessary baghouse bag repair. In addition, the minimum flow requirements herein shall be suspended at the cupel furnaces during tapping and at the ventilation controlling cupola furnace tapping emissions at such times as the cupola furnace is banked. In no event shall flows during baghouse unloading decrease by more than 25% of the minimum air flow. There are certain minimum air flow requirements for ventilation set forth in this order which are subject to modification by designation of the Director of a lower minimum air flow in the event that, during a compliance test conducted in accordance with this order, emission limits are met and effective capture of fugitive emission occurs at ventilation rates lower than expressed herein. In such instances, the Director will fix the new ventilation rates at those used during the test used for

demonstration of compliance. The minimum air flow requirements of this order are, in acfm:

Source	Minimum Air Flow Requirement (acfm)
1. Cupola furnace charging, para. 9(h)(i)	20,000
2. Cupola furnace tapping, para. 9(h)(i)	14,000
3. Residue kettle and Residue kettle combustion gas, para. 9(h)(ii)	
a. charging buttons; skimming; dipping	3,000
b. holding; melting buttons	9,000
c. charging molten metal; mixing; reagent addition	15,000
4. Cupel furnaces, para. 9(j)(i)	9,000 per furnaces

Alternatively, Asarco is offered the option of measuring all flows and demonstrating compliance with the fugitive dust collection efficiency represented by Asarco as necessary to demonstrate compliance in its submittal to the State of the 1995 Revision To The Nebraska Implementation Plan For Lead.

17. After December 31, 1996, Asarco shall produce no emissions from the "Black Stack", also known as emission inventory source number 20000.

18. In accordance with Section 172(c) (9) of the Clean Air Act, Asarco shall implement the following contingency measures if

it fails to meet the reasonable further progress schedule contained in item 11 of this order or if there is a failure to attain the ambient air quality standard for lead subsequent to January 1, 1997. EPA and/or the state will make such a determination. The State will notify Asarco within 5 days of such determination. Upon notification by the state, Asarco shall begin to implement the applicable contingency measures listed below as expeditiously as practicable but not later than 60 days from the date of notification. The contingency measures are:

(a) In the event of a failure to meet any of the deadlines for reasonable further progress contained in the table set forth in item 11 of this order, then Asarco shall increase street cleaning frequency as required in item (9)(b)(ii) of this order to a minimum of 12 hours per day, 7 days per week, until such time as the failure is cured by completion of all delinquent control measures.

(b) In the event of failure to be in attainment with the lead standard by January 1, 1997, or at any time thereafter, then Asarco shall also increase street cleaning frequency as required in item 9 (b) (ii) of this order to a minimum of 12 hours per day, 7 days per week, until alternative pollution control measures are approved by NDEQ and implemented by Asarco.

(c) In the event of failure to be in attainment with the lead standard at any time after January 1, 1997, and while operating under the production limits set forth in

paragraph 9(m) above, then upon written notice from NDEQ, Asarco shall reduce the production of all products for which this order imposes production limits by ten percent (10%) of the amount required under paragraph 9(m) in the first full calendar quarter following receipt of such notice. Likewise, if after a ten percent (10%) reduction in production as required herein, there is again a failure to attain the lead standard, there shall be a series of such progressive and additive 10% reductions of production until attainment with the lead standard is achieved. Any reduction imposed pursuant to this subparagraph (c) shall remain in effect until alternative pollution control measures are approved by NDEQ and implemented by Asarco.

19. Notwithstanding any other provision of this order, subsequent to January 1, 1997, Asarco shall operate its plant so as to cause no violation of the ambient air standard for lead.

20. This Document is intended to be a complete statement of all requirements imposed by NDEQ on Asarco as part of the State Implementation Plan for Lead, both previously promulgated and newly revised. Those requirements of the June 9, 1995, Final Complaint and Compliance Order not contained in this document are hereby annulled.

NOTICE OF OPPORTUNITY FOR HEARING

21. Pursuant to Neb. Rev. Stat. § 81-1507(1) (reissue 1994) the provisions of this order, with the exceptions of the

previously promulgated provisions which are final and not subject to further hearing, shall become final unless the respondent requests in writing a hearing before the director not later than thirty days after receipt of this order.

PENALTY AND INJUNCTIVE PROVISIONS

22. This Final Complaint and Compliance Order does not preclude NDEQ from pursuing enforcement in a court of appropriate jurisdiction for injunctive relief or civil and criminal penalties as provided in the Nebraska Environmental Protection Act with respect to any past or future violations.

June 6, 1996
Date

Randolph Wood, P.E., Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY